

## **REMARKS**

This Amendment is in response to the Office Action dated **July 30, 2008**. Each issue in the Office Action is addressed below.

### ***Election/Restrictions***

It is stated in the Office Action that claims 32-35, 39-47 and 50-52 read upon the elected species shown in figure and that claims 36-39 and 48-49 do not read upon figure 6 and are withdrawn. In Applicants response and amendment filed March 31, 2008, Applicant acknowledged the election but requested that claims 39, 51 and 52 be reconsidered as to their reading upon the elected species because they clearly read upon figure 6. It looks like claims 39 and 51-52 were reconsidered and included in the claims that read upon figure 6, but claim 39 on page 2 of the office action is listed as both not reading and reading upon figure 6. Applicant assumes this is an error and that it is considered to read upon figure 6.

### ***§102 Rejections***

Claims 32-35, 40, 45-47 and 50-52 were rejected under 35 USC §102(e) as being anticipated by Waksman et al. (US 5899882). It is asserted on page 3 of the Office Action that, as to claims 32-35, 40, 45-47, 50-52, Waksman et al. (Fig. 11, for example) disclose inner shaft 272, balloon 274 that can be used with a stent (not shown) as a stent deployment balloon (col. 33, lines 18-20), rings 22 as a mounting body, in vivo moldable polymeric stent 36 and stops/marker bands 270.

Although Applicant disagrees with the rejection, to further the application to issuance, independent claim 32 has been amended to incorporate the subject matter of claim 41, which was not rejected under this §102 rejection. Withdrawal of the rejection is therefore respectfully requested.

### ***§103 Rejections***

Claims 39 and 41-44 were rejected under 35 USC §103(a) as being unpatentable over Waksman et al. (US 5899882). As to claim 39, it is asserted that Waksman discloses substantially the claimed invention, except for a wire through rings 22. However, it is asserted, a

guidewire in the lumen of inner shaft 272 when the device is used for a stent deployment is well known in the art and it would have been obvious to one of ordinary skill in the art to have a guidewire extending through rings 22 as recited in the claims.

Although Applicant disagrees with the rejection, claim 39 has been amended to further clarify that the claimed wire is attached to the rings of the invention. As such, withdrawal of the rejection is respectfully requested.

As to claims 41-44, it is asserted in the rejection that Waksman et al. disclose substantially the claimed invention, except for mounting body including rings 22 made of a polyethylene or an elastomeric or a silicone. However, it is asserted, polyethylene, elastomeric and silicone are well known materials used in the art and it would have been obvious to one of ordinary skill in the art to include a layer or film of an elastomeric material or a silicone or a polyethylene for over rings 22 as this configuration would provide a soft surface for rings 22 and would have been within level of one of ordinary skill in the art.

As shown and mentioned above, claim 32 has been amended to incorporate the subject matter of claim 41. That is, claim 32 requires that “the mounting body is formed of a material which resiliently deforms under radial pressure”. Although Applicant believes the language added from claim 41 is clear in that it does not describe a layer or film covering the mounting body, as described in the rejection, the term “formed” has been added to further clarify the claimed subject matter. Claims 42-44 have been amended to depend upon claim 32.

With regard to newly amended claim 32 and the present rejection, the rejection as now applied to newly amended claim 32 fails at least because the asserted combination in the rejection does not provide for the element “the mounting body is formed of a material which resiliently deforms under radial pressure”. In making the rejection, the rejection established the treating elements 22 as shown in figure 11 of Waksman et al. as the “mounting body” of claim 32. However, it is not addressed in the rejection what the “mounting body” is made of, as was claimed in claim 41 and now amended claim 32. Rather the rejection states that “it would have been obvious to one of ordinary skill in the art to include a *layer* or *film* of an elastomeric material or a silicone or a polyethylene for over rings 22 as this configuration would provide a soft *surface for rings 22*”. This is an added element in addition to the asserted “mounting body” and doesn’t address what material the “mounting body” is made of. As such, at least for this reason, the

rejection fails to provide for each and every element of the claimed invention and withdrawal of the rejection is respectfully requested.

***Miscellaneous***

Claim 48 has been amended to correct its dependency.

It is also requested that the amendment to claim 32, which is the only independent claim, be entered because the amendment consisted of the addition of the subject matter of dependent claim 41, which was already searched and examined and therefore the amendment would not necessitate a new search.

**Conclusion**

Based on at least the above, Applicant respectfully submits that this application is in condition for allowance. Favorable consideration and prompt allowance of claims 32-35, 39-40, 42-47 and 50-52 as well as withdrawn dependent claims 36-38 and 48-49 is requested. Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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